

# HOUSE BILL REPORT

## HB 2131

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**As Reported by House Committee On:**  
Technology, Energy & Communications

**Title:** An act relating to providing a credit under the public utility tax for sales and use taxes paid for the development of eligible renewable resources in the state that provide renewable energy to a qualifying utility.

**Brief Description:** Providing a credit under the public utility tax for sales and use taxes paid for the development of eligible renewable resources in the state that provide renewable energy to a qualifying utility.

**Sponsors:** Representative Morris.

**Brief History:**

**Committee Activity:**

Technology, Energy & Communications: 2/16/09, 2/18/09 [DPS].

**Brief Summary of Substitute Bill**

- Provides a credit under the public utility tax for sales and use taxes paid for the development of eligible renewable energy resources by certain electrical utilities.

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### HOUSE COMMITTEE ON TECHNOLOGY, ENERGY & COMMUNICATIONS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives McCoy, Chair; Crouse, Ranking Minority Member; Halder, Assistant Ranking Minority Member; Carlyle, Condotta, Finn, Hasegawa, Herrera, Hinkle, Hudgins, Jacks, McCune, Morris, Takko and Van De Wege.

**Staff:** Scott Richards (786-7156)

**Background:**

Energy Independence Act.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Approved by voters in 2006, the Energy Independence Act (Initiative 937) requires electric utilities with 25,000 or more customers to meet targets for energy conservation and for use of eligible renewable resources.

Eligible Renewable Resource Targets.

Each qualifying utility must use eligible renewable resources or acquire equivalent renewable energy credits, or a combination of both, to meet the following annual targets:

- at least 3 percent of its load by January 1, 2012, and each year thereafter through December 31, 2015;
- at least 9 percent of its load by January 1, 2016, and each year thereafter through December 31, 2019; and
- at least 15 percent of its load by January 1, 2020, and each year thereafter.

Eligible Renewable Resource.

"Eligible renewable resource" includes wind, solar, geothermal energy, landfill and sewage gas, wave and tidal power, and certain biomass and biodiesel fuels. Electricity produced from an eligible renewable resource must be generated in a facility that started operating after March 31, 1999. The facility must either be located in the Pacific Northwest or the electricity from the facility must be delivered into the state on a real-time basis. Incremental electricity produced from efficiency improvements at hydropower facilities owned by qualifying utilities is also an eligible renewable resource, if the improvements were completed after March 31, 1999.

Public Utility Tax.

The Public Utility Tax applies to the gross income derived from the operation of publicly and privately owned utilities. The tax is in lieu of the business and occupation tax and applies to the general categories of transportation and the supply of energy and water.

Sales and Use Tax.

Sales tax is imposed on retail sales of most items of tangible personal property and some services. The use tax is imposed on the same privilege of using tangible personal property or services in instances where the sales tax does not apply. Sales taxes are levied by the state, counties, and cities, and total rates vary from 7 to 8.9 percent. The use tax is paid directly to the Department of Revenue.

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**Summary of Substitute Bill:**

A light and power business that is a qualifying utility under the Energy Independence Act is allowed to claim a credit for public utility taxes due. The amount of the credit is equal to the sales and use taxes that the qualifying utility pays, or any other person pays, on machinery and equipment used directly in generating electricity from an eligible renewable resource. This tax incentive may be applied toward the sales of, or charges made for, labor and services rendered in respect to installing machinery and equipment. One-quarter of the amount of credit earned may be claimed in the fiscal year in which the eligible renewable resource becomes operational. The remaining credit may be claimed during the subsequent three

fiscal years in an amount equal to one-quarter of the amount of credit from each successive fiscal year. The credit may not be claimed for sales and use taxes imposed by local governments.

The tax incentive expires on July 1, 2019.

The qualifying utilities must file claims electronically using the Department of Revenue's (Department) online tax filing service. The amount of credit claimed in any reporting period may not exceed the amount of tax otherwise due for the reporting period. The credit may not be earned for sales and use tax paid before the effective date of this act. A qualifying utility claiming the credit must keep records necessary to verify eligibility for the credit and the amount of credit the utility is entitled to.

The Department must advise the State Treasurer on a quarterly basis the amount of credit claimed under this act.

#### Definitions.

"Qualifying utility" and "eligible renewable resources" have the same meaning as qualifying utility under the Energy Independence Act.

"Machinery and equipment" means industrial fixtures, devices, and support facilities that are integral and necessary to the generation of electricity from an eligible renewable resource. Machinery and equipment does not include: (a) hand-powered tools; (b) property with a useful life of less than one year; (c) repair parts required to restore machinery and equipment to normal working order; (d) replacement parts that do not increase productivity, improve efficiency, or extend the useful life of machinery and equipment; (e) buildings; or (f) building fixtures that are not integral and necessary to the generation of electricity that are permanently affixed to and become a physical part of a building.

Machinery and equipment are "used directly" in generating electricity from an eligible renewable resource if they provide any part of the process that captures the energy, converts that energy to electricity, or stores, transforms, or transmits that electricity for entry into or operation in parallel with electric transmission and distribution systems.

#### **Substitute Bill Compared to Original Bill:**

The substitute bill modifies the timeframe for which a qualifying utility may claim a credit against its public utility tax.

Machinery and equipment is "used directly" in generating electricity from an eligible renewable resource if it provides any part of the process that captures the energy, converts that energy to electricity, or stores, transforms, or transmits that electricity for entry into or operation in parallel with electric transmission and distribution systems.

The public utility tax (PUT) credit is available only if the renewable resource on which sales or use taxes were paid is owned or operated by the qualifying utility or the electrical energy produced by the resource is contractually obligated to the qualifying utility at the time the PUT credit is claimed.

This tax incentive expires July 1, 2019, rather than July 1, 2023.

Reporting requirements are added.

The substitute bills specifies that the Department of Revenue must advise the State Treasurer on a quarterly basis the amount of credit claimed under this act.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill contains an emergency clause and takes effect July 1, 2009.

**Staff Summary of Public Testimony:**

(In support) The bill balances two important state goals to promote development of renewable energy resources and to address the current budget crisis. Initiative 937 requires qualifying utilities to use certain levels of renewable energy resources. For electric utilities, wind is the preferred source of large, utility-scale renewable energy resources. Wind is incrementally more expensive to buy, or build, and this bill will help make wind somewhat more competitive. This bill ensures that the benefits of state support for renewable energy development accrues to the customers of Washington utilities.

(Opposed) None.

**Persons Testifying:** Representative Morris, prime sponsor; Ken Johnson, Puget Sound Energy; and Collins Sprague, Avista Corporation.

**Persons Signed In To Testify But Not Testifying:** None.